

Ashish

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.1521 OF 2025

Ekhnath Namdev Gaikwad	... Applicant
V/s.	
State of Maharashtra	... Respondent

Mr. Vaibhav Kadam, a/w Mr. Shrinath Badade, Vedika Bhoir, Shweta Jadhav, Aditya Thorat, Pooja Nikam for Applicant.

Mrs. Mahalakshmi Ganapathy, APP for State.

CORAM : AMIT BORKAR, J.

DATED : JULY 9, 2025

P.C.:

1. The present bail application is filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973, seeking regular bail in connection with Crime Register No. 95 of 2024, registered with Kasara Police Station, for offences punishable under Sections 302 and 364 of the Indian Penal Code. The allegations against the applicant pertain to the kidnapping and murder of a minor child aged about 8 years.

2. As per the case of the prosecution, between 1:00 p.m. on 10th June 2024 and 8:30 a.m. on 11th June 2024, unknown persons kidnapped the nephew of the informant and caused his death by forcibly stuffing pieces of paper into his mouth. On the

basis of this incident, the paternal uncle of the deceased lodged a complaint against unknown persons. The applicant came under suspicion and was arrested on 11th June 2024.

3. Learned Advocate for the applicant submitted that the entire case of the prosecution is based on circumstantial evidence and there is no direct evidence connecting the applicant to the alleged crime. He pointed out the findings from the medical examination of the victim, which mention tear to the anus, white discharge from the penis, and paper stuffed in the mouth. He submitted that although these facts are grievous, there is nothing on record to show direct involvement of the applicant. It is further argued that the alleged chain of circumstances relied upon by the prosecution is incomplete.

4. He referred to the statement of a shopkeeper who allegedly saw the applicant with the child at 10:30 p.m. on the date of the incident, and the statement of another witness who claimed that the applicant had told him a day prior that, in case police inquiry is made, he should inform them that two women along with a child had visited his premises. It is submitted that these statements are insufficient to form a continuous and unbroken chain of circumstances so as to point unerringly to the guilt of the applicant. Therefore, it is prayed that the applicant may be released on bail, particularly considering the settled principle that suspicion, however grave, cannot take the place of proof.

5. On the other hand, the learned APP for the State has strongly opposed the bail application. It is submitted that the

statements of the shopkeeper and the other witness are significant in nature and sufficient to form a complete chain of circumstances. The shopkeeper has specifically stated that the applicant had taken some papers from his notebook which contained names of his debtors. It is further argued that these same papers were later found stuffed in the mouth of the deceased victim, thus connecting the applicant to the commission of the offence. The learned APP therefore submitted that the material collected during investigation prima facie indicates the applicant's involvement and hence, the application for bail deserves to be rejected.

6. I have considered the submissions of the learned Advocate for the applicant and the learned APP for the State. I have also perused the case papers including the FIR, statements of witnesses and the medical report.

7. It is true that the death of a minor child in the present case is tragic and the allegations are serious in nature. However, at this stage, the Court is required to assess whether a prima facie case is made out and whether the applicant's continued detention is necessary for the purpose of investigation, or whether he can be released on bail with appropriate conditions.

8. Upon careful consideration, it appears that the prosecution case is primarily based on circumstantial evidence. The prosecution has relied on the statements of a shopkeeper and another witness to establish the involvement of the applicant. However, the said statements, on their own, do not conclusively complete the chain of circumstances to point solely and unerringly

towards the guilt of the applicant. There is no recovery of any incriminating article from the applicant. The so-called papers allegedly taken by the applicant have not been specifically identified or forensically linked to the deceased or to the scene of crime. Further, the purported statement instructing the other witness to mislead police, though suspicious, needs to be tested during the course of trial.

9. The applicant has been in custody since 11th June 2024. The investigation is complete. There is no material placed on record to show that the applicant has a criminal antecedent or that he poses a flight risk. The possibility of tampering with evidence or influencing witnesses can be taken care of by imposing appropriate conditions.

10. In view of the above circumstances, and applying the settled principles of law governing grant of bail, this Court is of the opinion that further detention of the applicant is not warranted. Accordingly, the following order is passed:

ORDER

(a) The application is allowed.

(b) The applicant is directed to be released on bail in connection with C.R. No. 95 of 2024 registered with Kasar Police Station, for offences punishable under Sections 302, 364 of Indian Penal Code, on his executing P.R. Bond of ₹25,000/- (Rupees Twenty Five Thousand Only) with one or more sureties in the like amount.

(c) The applicant shall not tamper with the evidence or attempt to influence any witness.

(d) The applicant shall report to the Investigating Officer once in Three month on first Monday between 10 am to 12 am.

(e) The applicant shall furnish his current residential address and contact number to the Investigating Officer and shall not change the same without prior intimation to the Court.

(AMIT BORKAR, J.)